

On 29 March 2019, the UK will no longer be a member of the European Union with implications for the estimated 3.8 million EU citizens living here in the UK. However, as part of the [draft withdrawal agreement](#) reached between the EU and UK, the government is in the process of rolling out an [EU Settlement Scheme](#) which will allow EU citizens and their family members to stay, if they arrive in the UK before 31 December 2020.

Many creative industries employers will want to ensure that their EU workers are informed about the scheme and to help them apply. Below you will find a short overview of the scheme as well as signposting to useful employer's communications materials published by the government. The Federation sits on the Home Office Employers Representative Group and we have been feeding in to shape the scheme and employer's materials.

***Whilst you can begin taking steps to help your employees prepare, please be aware that they may not have access to the application form until 30 March 2019 when it is fully rolled out. The deadline for applications to the scheme for those who are resident here by the end of 2020 will be June 2021.***

***Moreover, the final withdrawal agreement is subject to parliamentary approval and there is uncertainty on whether EU citizens can stay in the event of a 'No Deal Brexit'. The Brexit Secretary Dominic Raab has [stated publicly](#) that in the event of a 'No Deal Brexit' the prospect of government not resolving EU citizens' legal position and removing them from the UK "is far-fetched, fanciful and would not happen." However, government has made no formal, written guarantee to ring fence the agreement reached between UK and EU if we crash out of the EU.***

#### What is the Settlement Scheme?

In December 2017, the EU and UK reached an agreement which will allow EU citizens in the UK to remain here after the UK leaves the EU. In March 2018, the UK and EU extended this right to remain to EU citizens entering the UK during the implementation period between 29 March 2019 and 31 December 2020.

As part of those commitments, the UK has set up an EU Settlement Scheme to help EU citizens and their family members obtain UK immigration status. In line with the draft withdrawal agreement, the scheme allows:

- EU citizens and their family members<sup>1</sup> who, by 31 December 2020, have been continuously resident<sup>2</sup> in the UK for five years to be eligible for 'settled status' meaning they can stay indefinitely.
- EU citizens and their family members who are in the UK by 31 December 2020 - but have not been continuously resident in the UK for five years - to be eligible for 'pre-settled status' allowing them to stay in the UK until they reach five years. They can then also apply for 'settled status'.

<sup>1</sup> Family members: The spouse, civil partner or previously documented unmarried partner of the EU citizen; the dependent children, grandchildren, parents or grandparents of the EU citizen or of their spouse or civil partner; and any other previously documented dependent relative of the EU citizen are included in the definition of family member. Family members do not need to be from the EU to be eligible.

<sup>2</sup> Continuous residence: The conditions for obtaining settled status requires periods of continuous residence within the UK of at least six months in total in any 12-month period for five consecutive years of residence. However, there is some flexibility with a single period away from the UK of up to 12 months being permitted for important reasons such as childbirth, serious illness, an overseas work posting, vocational training or study. There is also an exception for those people that have had to return to their countries for compulsory military service.

In both cases, EU citizens and their family members will have the same access as they do now to public services such as healthcare and schools, public funds, pensions and other benefits. Moreover, after the implementation period, close family members<sup>3</sup> living overseas will still be able to join the EU citizen who resides in the UK. This is only for relationships which existed on 31 December 2020 and continue to exist when the person wishes to come to the UK. Children born or adopted after the cutoff point are also protected.

The government has stated that their ambition is to provide a short, straightforward, user-friendly application process. Applicants must apply online or using a new app. Where possible, the application process will help the applicant to establish their continuous residence and whether it amounts to five years, on an automated basis using data held by HM Revenue & Customs (HMRC) and in due course also the Department for Work and Pensions (DWP). This will keep the documentary evidence the applicant is required to provide to a minimum.

Alternatively, a wide range of documents will be accepted to prove the length of time they have been here, and if they miss a document or make a mistake they will not be rejected straightaway. The Home Office is looking to improve its customer focus and will be looking for reasons to grant rather than refuse EU applicants. In theory, this should mean all EU citizens are successful in their applications unless they are a serious or persistent criminal or threat to national security.

The EU Settlement Scheme is being gradually phased in. At the end of August, a pilot began in the North West. Full roll out of the scheme is expected by 30 March 2019 and the deadline for applications to the scheme for those resident here by the end of 2020 will be 30 June 2021.

### **What is the role of employers?**

There is no legal obligation for employers to provide practical support to their non-UK EU citizens to help them apply for the EU Settlement Scheme or to pay/support the cost of the application. Nevertheless, you may wish to do so at your discretion. To this end, the government has created a [toolkit](#) providing guidance for employers and information resources to circulate to employees.

The toolkit contains a range of ready-made communications materials such as:

- [A toolkit introduction](#) – provides information on the toolkit and how it can be used
- [A briefing pack](#) - to be used for presentations, face-to-face events and webinars with EU citizens
- **Leaflets** - these provide information on [eligibility requirements](#), [how to apply](#), and [key terminology](#)
- [Posters](#) - these provide key information on timelines and the application process
- [Videos / animations](#) - currently this includes a 'how to' video at the bottom of the page and further videos and animations will be added

---

<sup>3</sup> Close family members: the spouse, civil partner, or unmarried partner of the EU citizen, the dependent children, grandchildren, parents or grandparents of the EU citizen or of their spouse or civil partner are included in the definition of close family members. It does not include other relatives, such as brothers, sisters, nieces or nephews etc. of the EU citizen making the application. However, there is a distinction to be made here between the "dependent relatives" mentioned in footnote 1 and those here. Dependent relatives entering before 31 December 2020 includes all dependent relatives of the EU citizen. However, dependent relatives entering after the implementation period only includes "close" dependent relatives of the EU citizen making the application such as dependent children, grandchildren, parents and grandparents. Close family members do not need to be from the EU to be eligible.

For more information, employers can sign up to the Home Office's [email alerts](#), attend interactive webinars and [email the Home Office](#) directly. You can also direct your EU workers to the [campaign page](#) to learn more about their EU citizens' rights and encourage them to sign up to the [email alerts](#).

Additional information:

- You have a duty not to discriminate against EU citizens in light of the UK's decision to leave the EU as both a prospective and current employer.
- Current 'right to work' checks (e.g. EU passport and/or national ID card) apply until the end of 2020. There will be no change to the rights and status of EU citizens living in the UK until 2021.
- You do not have to interpret information provided by the government and you must be careful not to provide immigration advice.

The toolkit will be updated in the autumn.

### Key information on the application process

- Applications can be made online via a computer, tablet or smartphone. Support is available over the phone or in person if applicants need help doing things online.
- An optional mobile phone app will allow applicants to confirm their identity and nationality remotely using an Android device, alternatively they can post the passport or ID card to the Home Office.
- You may wish to provide your employees with access to the application form via a company smartphone, tablet or computer, and the identity verification app via an Android smartphone. The mobile phone app identity verification is currently not available on Apple devices.
- The Home Office will provide Assisted Digital Support across the UK in places such as public libraries. You may wish to direct employees to one of these centres if they or their family members need assistance with making an application online. Information on your local centres will be made available on [gov.uk](#).
- In the application process, EU citizens will be required to prove their identity and nationality,<sup>4</sup> length of residency,<sup>5</sup> relationship to an EU citizen if they are a family member,<sup>6</sup> and that they have no serious criminal convictions.<sup>7</sup> All this can be done online although EU citizens can send their identity documents by post if necessary.
- Support is available over the phone, and Home Office case workers will contact applicants if they require further information and documentation to support applications.
- The cost of each application is £65, or £32.50 for those aged under 16. It will be free for those with valid

---

<sup>4</sup> Identity and nationality: generally through (for any applicant) their passport, or (for EU citizens) their national identity card or (for non EU citizens) a biometric residence card or biometric residence permit. For use of the identity verification app, only biometric identity cards and e-passports can be used. EU citizens will also need to provide a photo or take a picture of themselves on their phones during the application. Non-EU citizens will need to provide fingerprint biometrics.

<sup>5</sup> Length of residency: National insurance numbers should provide the information needed. However, the Home Office has published a list of possible documentation such as a P60, bank statements or utility bills which they may request in addition. More information [here](#).

<sup>6</sup> Proof of relationship: This could be a marriage or civil partnership certificate, or birth certificate.

<sup>7</sup> Serious criminal convictions: checks will be carried out on all applicants except those under 10 years old. Applicants will also have to declare any serious criminality during the application process. Exactly what is "serious" is not clear and the Home Office have indicated that any criminality will be considered on a case by case basis. However, they have said the overwhelming majority of EU citizens and their family members will be unaffected by this criterion.

documented permanent residence or valid indefinite leave to remain or enter (as evidenced by a biometric residence permit, other valid document or endorsement issued by the Home Office or Home Office records).

- Successful applicants will get proof of their status through an online service. As well as this digital means of evidencing their status, non-EU citizen family members in the UK granted status under the EU Settlement Scheme will also be issued with a biometric residence document, where they do not already hold a biometric residence card issued under the EEA Regulations.
- Irish citizens enjoy a right of residence in the UK that is not reliant on the UK's membership of the EU and therefore do not need to apply. Their eligible family members (who are not Irish citizens or British citizens) will be able to obtain status under the scheme without the Irish citizen doing so.
- The Home Office is also in discussions with Switzerland, Norway, Liechtenstein and Iceland to include their citizens in the EU Settlement Scheme.